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| | <p style="text-align: center;">Explanatory Memorandum for the Social Security Advisory Committee</p> | | |
| | <p style="text-align: center;">The Draft Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2013</p> | | |
| <p>For the meeting of the Social Security Advisory Committee on Monday 8 July 2013</p> | <p style="text-align: right;">DWP Department for Work and Pensions</p> | | |

**EXPLANATORY MEMORANDUM TO THE SOCIAL SECURITY ADVISORY
COMMITTEE FROM THE DEPARTMENT FOR WORK AND PENSIONS**

**Draft Income Support (Work-Related Activity) and Miscellaneous
Amendments Regulations 2013**

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1. Introduction

- 1.1 The Department for Work and Pensions is putting a package of stand-alone provisions (in Part 2) and miscellaneous amendments (in Part 3) before the Social Security Advisory Committee. These are designed to create new rules on work-related activity (WRA) and to amend Social Security regulations, namely:
 - 1.1.1 The Social Security and Child Support (Decisions and Appeals) Regulations 1999/991.
 - 1.1.2 The Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000 S.I. 2000/1926.¹
 - 1.1.3 The Social Security (Jobcentre Plus Interviews) Regulations 2002 S.I. 2002/1703.
 - 1.1.4 The Employment and Support Allowance (Work-Related Activity) Regulations 2011/1349.
 - 1.1.5 The Universal Credit Regulations 2013 S.I. 2013/376.
 - 1.1.6 The Employment and Support Allowance Regulations 2013 S.I. 2013/379.
- 1.2 The Regulations seek to improve the level of employment support available to lone parents (and nominated responsible carers under Universal Credit (UC)) with pre-school aged children, to better prepare them for the full work-related requirements they will face when their child turns 5. The Regulations make changes such that:
 - 1.2.1 the frequency, timing and duration of Income Support Work-Focused Interviews (WFI) for lone parents with a youngest child aged 1 – 4 can be flexible when IS is awarded *solely* on the basis of being a lone parent. These WFIs are currently conducted at fixed points, as determined by regulations. These changes are known as the Work Focused Interview (WFI) changes.
 - 1.2.2 employment support advisers have the powers to require lone parents with a youngest child aged 3 or 4 to undertake to undertake mandatory work-related activity (WRA) if they are awarded IS *solely* on the basis of being a lone parent or

¹ Together hereinafter referred to as the 'WFI regulations'

old –style ESA and are in the ESA (WRAG). A requirement to prepare for work will be extended to lone parents and nominated carers with a youngest child age 3 or 4 if they are awarded UC or new-style ESA. These are known as the Work Related Activity (WRA) changes.

1.3 In greater detail, the proposed WFI changes:

- 1.3.1 move from a fixed to a flexible approach for mandatory WFIs in Income Support (IS) for lone parents age 18 and over who are awarded IS *solely* on the basis of being a lone parent and whose youngest child is aged 1-4 (regulations 12(2)&(3) and 13(2)&(3)).
- 1.3.2 remove the provision to waive an IS WFI interview until the next scheduled review date. This change only applies for lone parents that are awarded IS *solely* on the basis of being a lone parent (regulations 12(5) and 13(4)).
- 1.3.3 remove the list of circumstances within IS WFI regulations that are to be taken into account when considering “good cause” for failing to participate in an interview. This change would apply to all claimants that are awarded IS not just those that would be affected by the change to introduce work-related activity.

1.4 In greater detail, the proposed WRA changes:

- 1.4.1 introduce the powers for employment support advisers to mandate lone parents aged 18 and over with a youngest child aged 3 or 4 and who claim IS *solely* on the basis of being a lone parent, to be required to undertake mandatory WRA (regulation 2).
- 1.4.2 state that the requirement that a notification of WRA must be contained within an Action Plan and be given to the individual (Regulation 3) should apply to IS lone parents in scope of the change. The person may request a reconsideration of his action plan (regulation 5).
- 1.4.3 provide that a person who fails to undertake WRA has the opportunity to show ‘Good Cause’ for that failure within five days beginning on the date he is notified of his failure to undertake WRA (regulation 6(1)). If that person brings facts to the attention of the Secretary of State after five days which could not have been brought to his attention before,

the time limit for showing good cause is extended to one month (regulation 6(3)).

- 1.4.4 provide that a person who fails to undertake WRA, without showing 'Good Cause' for that failure, will have their income support reduced by 20% of the applicable amount for a person aged not less than 25, in line with the sanctions regime for WFIs (regulation 7). The reduction of IS will cease when either the person meets their WRA requirement or ceases to be subject to the requirement to undertake WRA (regulation 8).
- 1.4.5 provide that a person may restrict their availability for WRA under certain circumstances (regulation 9).
- 1.4.6 amend the UC regulations so that lone parents and nominated responsible carers with a youngest child aged 3 or 4 can be subject to work preparation requirements (note that for the purposes of this note **we will use the term 'work-related activity, where appropriate, to include work preparation activity as defined under Universal Credit)**
- 1.4.7 amend the new-style ESA 2013 regulations so that nominated responsible carers with a youngest child aged 3 or 4 will be subject to work preparation requirements.
- 1.4.8 make consequential amendments to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 to enable decisions awarding IS to be superseded so as to impose and end a reduction , and to allow a decision imposing a reduction to be revised where there was an error the claimant did not contribute to.(regulation 11).
- 1.4.9 amend the Employment and Support Allowance (Work-Related Activity) Regulations 2011 (for old style ESA) so that lone parents aged 18 and over with a youngest child age 3 or 4 can be required to undertake mandatory WRA (regulation 14).

2. Commencement and application of the changes

- 2.1 The proposed changes are expected to come into force from January 2014.

- 2.2 The WFI changes will apply to:
- 2.2.1 lone parents (whereby the definition of a lone parents is given at regulation 2(1) of the Income Support (General) Regulations 1987 in relation to WFIs and section 2D(9)(b) of the Social Security Administration Act 1992 in relation to WRA) who are awarded Income Support *solely* on the basis of being a lone parent.
- 2.3 The WRA changes will apply to:
- 2.3.1 Lone parents who are awarded Income Support *solely* on the basis of being a lone parent who are aged 18 and over.
 - 2.3.2 lone parents who are awarded old style Employment and Support Allowance (ESA) and are in the Work-Related Activity Group (WRAG) who are aged 18 and over.
 - 2.3.3 lone parents who are awarded Universal Credit.
 - 2.3.4 lone parents who are awarded new-style Employment and Support Allowance (Contributory).
 - 2.3.5 nominated responsible carers who are awarded Universal Credit.
 - 2.3.6 nominated responsible carers who are awarded Employment and Support Allowance (Contributory) in new world benefits.

3. The current situation

- 3.1 Currently, lone parents with pre-school aged children who are awarded IS *solely* on the basis of being a lone parent are not required to seek work until their youngest child reaches age 5. Until then, they have to attend regular WFIs once their youngest child is aged one. IS lone parents with a youngest child age 1-3 are required to attend 6 monthly mandatory WFIs. These interviews become quarterly when the youngest child is age 4. The timing of these interviews is specified in Regulations. As part of these meetings, lone parents have to agree an Action Plan with their adviser, but are not required to undertake those activities as a condition of continued receipt of benefit.
- 3.2 Lone parents with children under age 5 can also be in receipt of old style Employment and Support Allowance (ESA). For those who are in the Work-related Activity Group (WRAG) they are required to attend WFIs, the frequency is determined by adviser discretion. They,

too, must agree an Action Plan with their adviser, but are not required to undertake those activities as a condition of continued receipt of benefit.

- 3.3 When their youngest child is aged 5, entitlement to IS *solely* on the basis of being a lone parent is lost. Lone parents that are not returning to work may, if entitled, claim Jobseeker's Allowance (JSA) if they are able to work or Employment and Support Allowance (ESA) if their capability for work is limited by a health condition.
- 3.4 There are instances in which a lone parent will continue to be entitled to receive IS even after their youngest child turns five: for example, if they are entitled to IS for another reason for example on the basis of being a full-time carer; because they care for a child who is entitled to the middle or higher rate care component of Disability Living Allowance (DLA); or where they are an approved Foster Carer and a foster child is placed with them. The proposed changes do not affect these lone parents.
- 3.5 Lone parents who proceed to make a claim for Jobseeker's Allowance (JSA) once their child turns five will, subject to entitlement, be subject to the full work search requirements of this benefit. Lone parents who either previously claimed IS and who move on to ESA (WRAG), or who had been claiming ESA (WRAG) for the time whilst their child was under the age of 5 become subject to the work-related requirements that other claimants face. This means that, in most cases, they can be required to undertake WRA.

4. General rationale behind the changes

- 4.1 Whilst the Department believes that the stepped increase in support (as detailed above in Section 3 and in Annex 1) offered to lone parents at present makes sense, we feel that more could be done to support lone parents to return to work, particularly in the year before they move to full work-related conditionality when their child turns 5.
- 4.2 As a result, we propose changes to the lone parent regime so that:
 - 4.2.1 the frequency and timing of Income Support WFIs for lone parents with a youngest child aged 1 and over can be flexible instead of conducted at fixed points in the claim (the WFI changes).
 - 4.2.2 employment support advisers have the powers to require lone parents and responsible nominated carers (under Universal Credit and new-style ESA) with a youngest child

aged 3 or 4 to undertake mandatory WRA (the WRA changes).

- 4.3 These changes support the Government's aim of delivering a welfare system that recognises work as the primary route out of poverty, and reduces the number of children in workless households.
- 4.4 The changes also reflect the Government's emphasis on personalised support into work. They recognise that in order to return to work, the level of the support required will vary from one person to the next, and acknowledge that advisers and local managers are best placed to identify the support and guidance that is appropriate to each claimant. Employment support advisers will have the flexibility to engage with the diverse group of claimants who comprise lone parents in a way which best suits each individual.
- 4.5 The WFI changes enable employment support advisers to tailor the services and engagement they have with lone parents at all points throughout their claim.
- 4.6 The WRA changes build upon the IS WFI changes, but are expected to be more relevant for lone parents in the year before they move to the full work-related conditionality. As this currently occurs when their child turns 5, we expect that the majority of parents affected by the work-related activity changes will have a youngest child aged 4. However, if advisers identify a lone parent whose youngest child is aged 3 who would benefit from, for example, a longer term course, or who has significant barriers to employment, the changes mean that advisers will be able to offer them this support at the point at which the individual needs it.
- 4.7 Currently we ask 16/17 year olds on IS and old-style ESA to attend a Learning Focused Interview (LFI) and this is conducted by Local Authority Youth Services (LAYS) Advisers. They are not required to undertake WRA. The government sees the importance of learning for those 16/17 year olds and their main focus should be on learning/gaining skills to move into work in the future. They can also access support through the Jobcentre Plus offer on a voluntary basis. These changes will not affect this position.
- 4.8 Under new world benefits, 16-17 year olds are treated no differently to other claimants. This means that they will be subject to the work related activity requirements. However, under new world benefits there is a strong emphasis on adviser discretion in determining what type of activity is suitable for each claimant, so we will write in guidance that we would expect any requirements placed on 16-17

year olds ought to reflect the government's focus on learning and skills for this age group.

- 4.9 A summary of the existing and proposed conditionality requirements are set out at Annex 1.

5. The Work Focused Interview changes

General

- 5.1 WFIs are currently the only mandatory activity required of lone parents aged 18 and over who are in receipt IS *solely* on the basis of being a lone parent.
- 5.2 The intent of WFIs are to help lone parents focus on how best to return to the labour market. WFIs provide a critical point of engagement with the claimant and provide a vital opportunity to provide them with information on the support that is available through Jobcentre Plus and partners to help them move away from benefit dependency and into work. It is at these interviews that an adviser can promote the benefits of work for the claimant and their family.
- 5.3 The policy objective for this change is to enable advisers to better support this group of lone parents in their movement toward the labour market, by giving advisers the discretion to tailor mandatory WFIs with lone parents in terms of frequency and duration, so that they can best identify each individual's barriers to returning to work.
- 5.4 There is strong evidence to support these changes. Evidence from the evaluation of the current WFI regime suggest that these interviews are effective in helping lone parents prepare for work, particularly where support is personalised, flexible and provided consistently through the same adviser. The benefit of WFIs has been shown to be wider than this, particularly around encouraging lone parents to access other JCP support. DWP evaluation evidence has shown that WFIs for lone parents have been effective, either by helping lone parents move into employment, being encouraged to volunteer for increased support from Jobcentre Plus, or providing a motivational or self-confidence boost.
- 5.5 The evidence also shows us that Lone Parent WFIs (LPWFIs) help customers feel more comfortable with the Jobcentre Plus environment and so more likely to use JCP services in the future. Those lone parents who are positive about LPWFIs value the practical and emotional support from advisers. They often welcomed

meetings where advisers took a 'holistic' view of them as a person and took the time to get to know them. The crucial aspect of LPWFIs is that the advice and guidance offered to customers may provide encouragement and facilitate access to additional forms of support.

- 5.6 These changes also further align the IS lone parents' regime with that experienced by other benefit claimants. Mandatory flexible interventions already exist within ESA. These changes therefore further simplify the approach for claimants and advisers.
- 5.7 We are not making changes for lone parents who are entitled to claim IS for reasons other than being a lone parent, for example foster carers or those that are full-time carers. This is because we recognise that, in addition to their caring responsibilities for their child, these lone parents will have additional responsibilities that must be taken into account and reflected in the requirements placed upon them.
- 5.8 This does not mean they will not receive the support they require or have this delivered flexibly if they so wish. They will continue to receive 6 monthly WFIs in which they can engage with an adviser and access support and they can volunteer to attend additional interviews that can be delivered entirely flexibly, face to face, by telephone or via group sessions. In the event that a lone parents circumstances change and they are no longer entitled to IS for a reason other than lone parenthood they may be required to undertake WRA if this is appropriate.
- 5.9 We are not making amendments to the UC regulations or the new-style ESA regulations regarding WFIs as the Welfare Reform Act 2012 already gives the Secretary of State the flexibility to specify how, when and where a WFI can take place.

Frequency

- 5.10 As detailed in Section 3, and at Annex 1, lone parents awarded Income Support *solely* on the basis of being lone parents are currently required to attend WFIs at fixed points in their claim depending upon the age of their youngest child:
 - 5.10.1 Under 1: no interview required
 - 5.10.2 Age 1-3: every 6 months
 - 5.10.3 Age 4: every 3 months
- 5.11 For the majority of these claimants, advisers must wait for at least 6 months once a claim to Income Support has been established before they can require a lone parent to come in for a WFI.

- 5.12 Whilst for some lone parents the current frequency of interaction will be sufficient to prepare them for the labour market, for those with greater barriers to employment the delay in between successive WFIs will be too great to offer them enough support in time for their return to full conditionality when their child turns five.
- 5.13 The changes at Regulation 12(3) and 13(3) offer advisers the flexibility to determine when they ask lone parents to come in for their next WFI. A flexible mandatory interview may take place once an award of IS has been established, and the frequency, timing and duration of subsequent interviews can all be tailored to the need of the individual. This means advisers will be able to call in those lone parents who need support more regularly if they think this is necessary, rather than being confined by set, fixed intervals in the legislation as at present.
- 5.14 To ensure that all lone parents are assured of face-to-face adviser time, there will be a benchmark, set out in guidance, about the minimum number of mandatory interviews that a lone parent will receive. This approach mirrors the situation offered to lone parents claiming ESA (WRAG). The minimum number of flexible mandatory face to face interviews that we expect this lone parent to receive in a year is:
- 5.14.1 Under 1: no interview
 - 5.14.2 Age 1-3: two face to face interviews per year.
 - 5.14.3 Age 4: four face to face interviews per year.
- 5.15 Note that the minimum number of interviews is the same as the number of WFIs currently required by the legislation. This ensures that lone parents will continue to receive at least the level of support they already receive. However, the removal of the existing specific WFI requirements, including when these interviews might take place, greatly expands the scope for advisers to tailor WFI frequency to claimant need.
- 5.16 The scope for there being an increase, where appropriate, in the number of interviews for lone parents whose youngest child is aged 4 reflects this policy's emphasis on better preparing lone parents for their transition to full work-related conditionality when their child turns 5.

- 5.17 The expectation is that the requirement for any individual to attend a flexible mandatory WFI will be reasonable. Advisers will need to take this into account when organising the frequency, duration and timing of the WFI. If necessary, advisers will have use of the Flexible Support Fund (FSF) to help lone parents cover the necessary child care costs incurred by attending a WFI, or, if this is not possible, to pay for the travel costs for a dependent child to attend the WFI alongside their parent.
- 5.18 The policy intent is that where lone parents demonstrate a clear work preparation plan and it is agreed they may need the minimum level of support the adviser will have the discretion to ensure this is reflected in the duration of interviews for any individual.

Duration

- 5.19 The duration of an IS work focused interview is currently fixed at between 40 and 60 minutes depending on whether it is a 6 monthly or quarterly interview. This is set in guidance but there is a degree of flexibility depending on the circumstances of the individual.
- 5.20 The nature of a WFI is determined by regulations and sets out what needs to be discussed between the claimant and adviser. This will vary according to whether this is a first or subsequent interview. For example, where the frequency of interviews increase it may be appropriate for these interviews to be of shorter duration.
- 5.21 No change to this provision is made by the regulations, but advisers have the ability to tailor the depth and focus of discussion depending on the needs of each lone parent.
- 5.22 Again, to safeguard lone parent support, the minimum and maximum duration for any such interview with indicative benchmarks will be set out in adviser guidance.
- 5.23 Policy intent is that where lone parents demonstrate a clear work preparation plan and it is agreed they may need the minimum level of support the adviser will have the discretion to ensure this is reflected in the duration of interviews for any individual.

Focus

- 5.24 In deciding how the WFI time is used in all cases the adviser will focus on supporting the lone parent in undertaking agreed steps which may help them overcome any barriers they may have for an

eventual return to work. That is, all interventions should be diagnostic.

- 5.25 In addition to diagnosing an individual's needs and determining suitable support, advisers have the discretion to decide how their time can best be spent with claimants to support them in identifying WRA that would help them achieve their identified work goals when the time comes for them to return to work (subject to the WRA changes included in these amendments- see Section 6).

Delivery

- 5.26 IS regulations do not support the flexibility to deliver mandatory WFIs through delivery channels other than face to face.
- 5.27 However, where appropriate Jobcentre Plus will continue to have the flexibility to supplement mandatory face to face WFIs with voluntary flexible interventions delivered via telephone or group information sessions where this is appropriate. This means that, as now, a lone parent failing to attend or participate in an interview conducted in this way will not be subject to a sanction.

Sanctions

- 5.28 The consequences for failing to attend a mandatory interview within IS and without good cause will remain unchanged.
- 5.29 Lone parents who fail to attend a WFI face a 20% sanction of their personal allowance, which increases by 20% for every subsequent failure, up to a maximum 100% sanction (less 10 pence to protect passported benefits).

Waiving the requirement to attend interviews

- 5.30 In the current fixed WFI regime it is sometimes appropriate to waive the requirement to attend an interview until the next scheduled mandatory review date in 3 or 6 months time.
- 5.31 For lone parents who are awarded IS *solely* on the basis of being a lone parent, these forward review dates will now be set by the adviser, rather than at some fixed point as dictated by the current WFI regime. This means the waiver provision is no longer necessary for this group of IS claimants.

- 5.32 In the event that an interview booked for a lone parent is not appropriate, for example their child is in hospital, provisions remain within regulations which will enable the Adviser to defer an interview until a specific date. Whilst a minimum number of WFIs will be set in guidance advisers this will be subject to adviser discretion this, together with the ability to defer an interview maintains any existing flexibility within the regime is not compromised by the removal of the waiver for this group of lone parents. Advisers are already familiar with this approach as this mirrors the approach for flexible ESA WFIs. For that reason we think it seems sensible to make this change.
- 5.33 The provision to waive an interview for people that claim IS on other grounds, for example because they are a full-time carer, remains unchanged.

Removal of 'list of good cause'

- 5.34 We also propose to remove from IS WFI regulations the list of “good cause” matters that are to be taken into account when “good cause” is being determined by Decision Makers. A list of matters to be taken into account when considering ‘good cause’ will not be included in the WRA regulations.
- 5.35 Changing the regulations in this way would align the way in which decisions are arrived at across all working age benefit claimants thus introducing a common approach for Decision Makers. Advisors and Decision Makers are already trained to handle this approach.
- 5.36 Whilst removing the explicit list of reasons to be considered when determining “good cause” from regulations we will ensure that the original policy intent and safeguard which allows consideration of ‘Good Cause’ will be retained within regulations.
- 5.37 The revised approach and supporting guidance will ensure that although specific circumstances to consider when determining ‘good cause’ are not set out in regulations safeguards will remain, providing claimants with an opportunity to explain why they have not complied.

6. The work-related activity changes

General

- 6.1 Lone parents age 18 and over whose youngest child is aged 3 or 4 already have voluntary access to the range of back to work activity

supplied Jobcentre Plus support- in fact, they have access to this regardless of the age of their youngest child.

- 6.2 However, even if their adviser identifies a real need to help them return to work, and even if the lone parent/nominated carer agrees to undertake action to address this in their Action Plan or Claimant Commitment, there are no requirements for them to carry out this activity as a condition of continued receipt of their benefit.
- 6.3 The introduction of the provision which allows employment support advisers to require lone parents/ nominated responsible carers whose youngest child is aged 3 or 4 to attend WRA (known as work preparation requirement under UC and new-style ESA) reflects the emphasis of this policy on better preparing lone parents for their movement to full work-related requirements when that child turns 5.
- 6.4 The proposed changes mean that not only will employment support advisers be able to more effectively identify lone parents' barriers to employment (via their more timely WFIs) but they will be able to require these claimants to carry out activity to tackle these barriers. This means that advisers have greater control over the preparation activity claimants are taking in order to move closer to the labour market.
- 6.5 As a result of the policy focus on the crucial year before moving to full work-related conditionality, we expect that the majority of lone parents/nominated responsible carers who will benefit from this change will have a youngest child aged 4. However, those parents furthest from the labour market or with multiple barriers to work may benefit from a longer lead-in approach in terms of their back to work activities. The regulation changes mean that if advisers identify a lone parent whose youngest child is aged 3 or over who would benefit from, for example, a longer term course, or who has significant barriers to employment, the changes mean that advisers will be able to offer them this support at the point at which the individual needs it.
- 6.6 It is also important to note that currently parents in scope of this change can access the Work Programme on a voluntary basis; both access and the requirement to participate are voluntary. The changes enable persons authorised by the Secretary of State to mandate claimants to WRA. Currently, some of these authorised persons include contracted out employment support providers. We will enter into negotiations about whether providers, for example Work Programme providers, choose to take up these powers as variations in their contracts. If they do, whenever they exercise them

they must use the same consideration of individual circumstances as JCP advisers.

Restrictions

- 6.7 Under IS lone parents can restrict the hours in which they can carry out WRA to those hours when their child is in school, or in the care of a responsible adult.
- 6.8 Under old and new-style ESA, and Universal Credit, there are no powers in place for lone parents to restrict the hours in which they undertake WRA. This is because the emphasis is on adviser discretion in determining when and what type of WRA is appropriate and reasonable for each individual. This means that each individual's circumstances must be taken into account in deciding what to mandate that claimant to; advisers will be notified of this in guidance.

Amendments to IS and ESA (WRAG) regulations

- 6.9 Currently the requirement to undertake WRA does not exist within IS regulations- claimants, including those in scope of this change, cannot be required to undertake work-related activity.
- 6.10 As mentioned in Section 3 and in Annex 1, lone parents awarded old-style ESA (WRAG) whose youngest child is aged under 5 are exempt from the work-related activity requirements of this benefit. Once their child turns 5, these lone parents then become subject to the full work-related requirements that other ESA (WRAG) claimants face. Only at this point can they can be required to undertake work-related activity.
- 6.11 We would use powers within the Social Security Administration Act 1992 to enable us to require lone parents that are awarded IS *solely* on the basis of being a lone parent, and powers within the Welfare Reform Act 2007 to enable us to require lone parents that are awarded old-style ESA and are in the ESA (WRAG), to undertake work-related activity if their youngest child is aged 3 or 4.
- 6.12 As mentioned at 4.7 of this document we will maintain the current position that lone parents under age 18 who are entitled to IS or old-style ESA will attend LFIs with LAYs to help them either return to work or education and training. They will not be required to undertake WRA as part of these changes.

New world regulation changes

- 6.13 Lone parents and nominated responsible carers are treated synonymously under Universal Credit and Employment and Support Allowance (Contributory) new world regulations. When their youngest child is aged under 5, claimants of both of these types are placed in the WFI group only. When their youngest child is age 5 they may be required to look for work² or, prepare for work³ if, for example their capability for work is limited by health or disability. Currently a lone parent/nominated carer can only be *required* to prepare for work when their youngest child is age 5.
- 6.14 We do not propose to change the current position that Universal Credit and new-style ESA claimants who are nominated responsible carers will be subject to WFIs only until their youngest child reaches the age of 3 (or not even any work-focused interviews in appropriate cases). We propose to change the current position so that when their youngest child reaches age 3 they can be subject to work preparation requirements as well as any requirement to attend a WFI.
- 6.15 Note that 16 and 17 year olds can make claims for Universal Credit. As such, they too will be subject to work-related activity if advisers determine it is necessary. Again, this will be entirely based on adviser discretion and advisers should make reasonable decisions. They will be supported to move into work or education/training if appropriate and in line with the Government's participation strategy.

Work-related activity/ work preparation activity

- 6.16 In section 2D of the Social Security Administration Act 1992 and section 13 of the Welfare Reform Act, "work-related activity" is defined as "an activity which makes it more likely that a person will obtain or remain in work or be able to do so".
- 6.17 Section 16 of the Welfare Reform Act 2012 gives the definition of a "work preparation" requirement as "a requirement that a claimant take particular action specified by the Secretary of State for the purpose of making it more likely in the opinion of the Secretary of State that the claimant will obtain paid work (or more paid work or better-paid work)".

² known as the All work-related requirement group"

³ known as the "Work preparation" group

- 6.18 For the purposes of this section when we refer to work-related activity, we mean both of the above.
- 6.19 Suitable work-related activity could include preparing a CV, exploring the local labour market or attending skills courses funded by BIS or DWP in England, or skills courses funded by DWP in Scotland and Wales where these are locally available. Claimants would only be referred to skills provision where there is a skills need and the provider is able to offer suitable training.
- 6.20 The type of activity each lone parent/nominated responsible carer will undertake, if any, is to be decided at the discretion of their adviser (Jobcentre Plus or Work Programme). Guidance will suggest that work-related activity should be tailored to the individual and advisers will be reasonable in taking into account the parents circumstances. This approach recognises that different lone parents/nominated responsible carers will have different needs and capabilities. It also recognises that advisers and local managers are best placed to identify the support and guidance that is appropriate to each claimant to help them to prepare for work as effectively as possible.

Skills

- 6.21 Skills is a devolved area. Given the devolved administrations' position on mandation to skills training at present, advisers will be notified in guidance that they should not mandate lone parents to Scottish or Welsh funded skills training in these areas. However, advisers will have the opportunity to send lone parents to DWP funded skills provision.
- 6.22 Advisers will only be able to mandate parents within the scope of this policy to DWP funded skills provision where it is appropriate and there is local availability. This will be explained in guidance.
- 6.23 DWP officials are currently liaising with officials from the Department for Business, Innovation and Skills as to what the most appropriate level of skills training (England only) would be.

Childcare

England

- 6.24 The requirement to participate in more frequent WFIs or undertake WRA may impact on the demand for formal childcare. In

circumstances where this is appropriate advisers would encourage lone parents to take advantage of the Department for Education (DfE) free childcare offer (England only). The DfE offer enables parents with a child age 3 to access up to 15 hours free childcare. In addition advisers will also have the discretion to use the Jobcentre Plus (JCP) Flexible Support Fund (FSF) to fund eligible childcare costs to enable parents to attend WFIs or participate in work preparation agreed with their adviser.

- 6.25 Given that Childcare is a devolved matter we would need to work with officials in the Devolved Administrations (DAs) to discuss with the DAs whether childcare funded by their Governments might be able to support parents undertaking WRA. DWP funds for eligible childcare costs for parents in Scotland and Wales undertaking WRA could, in line with those in England, be payable from the Flexible Support Fund (FSF) subject to adviser discretion.

Scotland

- 6.26 Since April 2002, Local Authorities have had a duty to secure a funded part-time pre-school education place for every 3 and 4 year old whose parents wish it. The Scottish Government wants to ensure that all children can experience the benefits that a quality pre-school experience can offer to children.
- 6.27 Currently, the entitlement is for 475 hours per year. This is usually delivered daily as a 2 ½ hour session, during the morning or afternoon, during school term times - 12 ½ hours a week. They may be able to get a different pattern of sessions to suit their child or their pattern of work.
- 6.28 The Child and Young People (Scotland) Bill is looking to increase this entitlement to 600 hours of funded early learning and childcare per year.

Wales

- 6.29 Flying Start is the Welsh Government targeted Early Years Programme for families with children under 4 years of age in some of the most deprived areas of Wales.
- 6.30 The core elements of the programme are drawn from a range of options that have been shown to influence positive outcomes for children and their families. These include free quality, part-time childcare for 2-3 year olds, an enhanced Health Visiting service, access to Parenting Programmes and Early Language Development.

- 6.31 This programme is universally available to all eligible children and their families in the areas in which it runs and is generally 10 hours per week however it is difficult to quantify the hours of free childcare as this varies in different areas and is subject to funding available and is often built in to a range of learning provision funded by the Welsh Government.

Timing

- 6.32 Advisers will need to take into account the lone parent's individual circumstances as to when they expect a lone parent to take part in work-related activity/work preparation activity.
- 6.33 For example, we would not routinely require WRA from day one of an established award of benefit. There needs to be a period of consideration and adjustment (for example, a lone parent may have just separated from their partner), so that engagement with this process starts on a positive footing. Commencement of the requirement to undertake WRA will be tailored to the individual needs of the claimant, with decisions made locally and at the discretion of the adviser on a case by case basis.
- 6.34 Advisers also have the power to specify the time a lone parent has to spend on any work-related activity/work preparation requirement (e.g section 16(2) of the Welfare Reform Act 2012). This will enable lone parents, in agreement with their adviser, to limit the time in which they attend WRA to ensure that they can arrange appropriate childcare for their child. They can ask to limit their time to hours when their child is normally in school, or to hours during which they have access to appropriate childcare (formal or informal). Adviser guidance will reflect the need to consider the reasonableness of any such activity, paragraphs 6.7-6.8 refers.

Sanctions

- 6.35 Lone parents awarded IS who fail to take part in mandatory work-related activity will face the same sanctions they would currently face if they fail to attend a WFI, ie a 20% sanction of their personal allowance, which increases by 20% for every subsequent failure, up to a maximum 100% sanction (less 10 pence to protect passported benefits). Failure to attend both a WFI and WRA would result in a 40% sanction.
- 6.36 Lone parents awarded old –style ESA (WRAG) who fail to take part in mandatory work-related activity without good cause will face the

same sanctions they currently face under ESA (WRA) regulations if they failed to attend a WFI. This is an open-ended sanction of 100% of their prescribed amount (they retain the work-related Activity Component of their benefit) followed by a fixed period of 1, 2 or 4 weeks upon re-compliance. The length of the fixed period sanction depends on how many failures there have been in the past year.

- 6.37 Lone parents and nominated responsible carers awarded Universal Credit/ ESA (C) new-style whose youngest child was aged 3 or 4 will now move into the Work Preparation Group. This means that if they fail to attend any WRA, they will be subject to an open ended sanction calculated broadly equivalent to, and no more than their standard allowance amount. Upon re-compliance (the date they arrange a new interview), there will be a fixed period sanction of either 1, 2 or 4 weeks depending on the number of failures there have been in the past year. Sanctions if they remained in the WFI -only group would have been the open-ended sanction but without the fixed period of sanction.
- 6.38 If a claimant fails to attend both a WFI and subsequently their work-related activity/work preparation, there will be two determinations of sanctions, one for each failure. The lone parent will face a sanction that could be twice as long as a result of their two consecutive failures.
- 6.39 All the normal safeguards and rules in relation to sanctions will apply. For example claimants will have the opportunity to provide evidence of good reason before any sanction is applied. So if a claimant fails to comply with a work preparation requirement because of a childcare emergency, that can be taken into account when a sanction is considered.
- 6.40 Lone parents claiming old-style ESA and Universal Credit will have access to hardship payments if they qualify and need additional support once a sanction has been applied. There are no equivalent hardship provisions for ESA new-style as this is a contributory benefit and claimants will normally be able to rely on other sources of support.

7. Consultation and scrutiny

- 7.1 A lone parent listening event was held on 19 June 2013 with external stakeholders, lone parents, other Government Departments, Jobcentre Plus Advisors and DWP officials to discuss what works for lone parents, to better understand the barriers that they face and to

share best practices. Whilst we did not discuss this proposal at the event (the proposal was announced as part of the Spending Review 2013) the outcomes of the event will be presented to Ministers and some of the proposals will be explored/considered and fed into our policies including the Jobcentre Plus Offer and the Work Programme. We plan to utilise the long-standing stakeholder group, the Lone Parent Voluntary Group to discuss and develop our approach for this proposal in the coming months.

8. Communication strategy

Communicating the changes to staff

- 8.1 DWP will ensure that the changes being made by these regulations will be communicated to all operational staff ready for the proposed implementation date in January 2014. There are various communication channels that can be used including weekly Senior and Operational Line Manager briefing, Implementation Memos and News Alerts. DWP will also ensure that any guidance and training materials will be amended to reflect the changes being made to the existing WFI and WRA regimes for claimants in scope of this change. The Decision Makers Guide (DMG) will also be updated to reflect the changes.
- 8.2 The type of training will vary across the business. All staff will receive general awareness training on the changes. Staff dealing more specifically with claimants that will be in scope of the change will receive specific training.

Communicating the changes to claimants

- 8.3 We would put in place processes, to ensure claimants that are in scope of the change will be informed that they are required to take part in flexible mandatory WFIs if they have a youngest child age 1 to 4 and WRA/work preparation if their youngest is age 3 or 4. We would consult stakeholders on best ways to ensure that claimants affected by the change have access to the information they need.
- 8.4 For IS/ESA claimants, this will involve writing things down in their action plan. For UC/ESA new-style claimants, this will involve writing down all their work preparation in their claimant commitment.
- 8.5 This communication will also ensure that the appropriate lone parents are informed of the relevant sanctions that will be applicable to them if they fail to attend without good cause or reason a flexible

mandatory WFI or the agreed piece of work related/preparation activity.

9. Costs

- 9.1 The changes in relation to lone parents affect approximately 240,000 lone parents with a youngest child age 1-3 receiving Income Support and 65,000 lone parents with a youngest child age 4.
- 9.2 The change to IS WFIs requires an IT change estimated cost of £5,000 as part of the detailed design process to the Decision Making and Appeals System (DMAS). DMAS is used to support the process for ISLP's who have been sanctioned for non participation/attendance in a WFI and who appeal against this decision. DMAS outputs claimant notifications which detail the relevant legislation the lone parent has been sanctioned under. A more flexible use of adviser time already allocated to lone parents currently exists. We know that the current WFI regime has an impact on benefit off-flows and we expect off-flow outcomes to improve.
- 9.3 An estimated project and delivery cost of approximately £1m would be required for work-related activity changes. There are possible running costs of approximately £500,000 a year in relation to increased decision making activity and tribunal costs which may be incurred as we increase requirements on relevant lone parents.
- 9.4 An increase in the frequency of mandatory WFIs for lone parents may see a corresponding increase in costs for the provision of childcare whilst attending the WFI and WRA. District Managers have budget responsibility for the way in which Flexible Support Fund (FSF) is managed.
- 9.5 We expect there will be around 65,000 lone parents a year whose youngest child is aged 4. An additional 40,000 nominated responsible carers a year under UC will have a youngest child aged 4. However, we do not expect all of these to be required to undertake WRA at the same time.
- 9.6 We expect that there will be 70,000 LPs whose youngest child is aged 3 a year additional 50,000 nominated responsible carers under UC will have a youngest child aged 3. However, we do not expect all of these to be required to undertake WRA at the same time.

10. Impact

Childcare

- 10.1 In cases where lone parents are required to attend more frequent WFIs or undertake WRA this policy has the potential for an impact on the private sector as it could result in increased childcare requirements.
- 10.2 Advisers would encourage lone parents to take advantage of the free DfE childcare offer.
- 10.3 In addition if additional private sector childcare were required, then this would have an impact on other budgets (e.g. Flexible Support Fund) which would be entirely at the advisers' discretion.
- 10.4 However we cannot judge the extent to which this will be required. Whilst we can encourage parents to consider the value of taking up formal childcare we cannot require parents to do so. In addition the parents in scope of this change may already be using childcare irrespective of any requirement placed upon them as a result of this proposed policy change. On this basis, and given that we would be entirely dependent on self reporting to establish if a parent is using or takes up childcare we cannot make any estimates of potential associated costs, nor of benefits.

Impact on Other Government Departments

- 10.5 The policy has received Home Affairs clearance subject to certain requirements and DWP officials are liaising with officials from all other departments to ensure any impacts are taken into consideration. There are two departments upon whom this policy impacts the most: the Department for Business, Innovation and Skills (BIS) and the Ministry of Justice (MoJ).
- 10.6 DWP officials are working closely with BIS officials as the change will place pressure on the Adult Skills Budget- whilst it will not involve a new entitlement for funding, there is potential for it to result in increased expenditure on lone parents which will result in the displacement of other claimants. The Minister for Universities and Skills has expressed strong support for the policy. However, he has only agreed to provide HA clearance for the policy should the result of the current spending round enable BIS to satisfy any additional

demand for provision through their budget. Officials from BIS and DWP will continue to liaise closely to ensure that this is addressed.

- 10.7 The change may also result in an increase in tribunal activity. DWP officials are working closely with officials at MoJ. The Parliamentary Under Secretary of State for Justice has provided clearance for the policy on the provision that the DWP takes responsibility for any additional tribunal costs involved. This cost has been included in the overall cost of the policy.

Impact on the Devolved Administrations

- 10.8 Whilst benefit legislation is not a devolved matter, skills training and careers advice is a devolved matter, funded by the governments in Scotland and Wales. Neither of the Devolved Administrations (DAs) is convinced that mandation to training has a positive effect and currently in Wales they do not allow advisers to mandate JSA claimants to training they fund.
- 10.9 As detailed in paragraph 6.22, we would inform advisers that they should not mandate lone parents and responsible nominated carers to training funded by either Scotland or Wales. Advisers will still be able to mandate lone parents to DWP funded skills provision in either of these areas.
- 10.10 This means that lone parents in Wales will have the opportunity to access at least the same provision (i.e. DWP funded provision) as lone parents in England. Officials within the Department are still liaising with the DAs and there is scope to mandate lone parents to this provision if the DAs changed their mind in future.

Impact on operations

- 10.11 We do not envisage that these changes will add significantly to Jobcentre Plus workload; this change will be subject to a full impact assessment. Although there are changes to guidance for advisers, Decision Making and Appeals (DMA) staff and benefit processors and changes to IT systems (see paragraphs 9.11 to 9.12 below) these should be deliverable by early 2014 and can be incorporated into UC systems and processes subject to full feasibility assessment.
- 10.12 Job role changes are not required to implement this change; WFI and WRA is already being delivered by advisers for ESA (WRAG) claimants. However, some IS advisors may be required to undertake

learning and development training as they would be unfamiliar with mandating the WRA process.

- 10.13 There is likely to be an unquantifiable increase in DMA related activity. We have included this in predicted costs for the proposal. Additional DMA activity (should it arise) may lead to more work for benefit processors. There does not have to be a linear link between more interventions and more DMA activity; neither does it follow that advisors will want to engage more with people who are less willing to engage particularly in cases where the youngest child is age 1 to 3. Indeed, as the interview activity is more flexible there may be less DMA activity as lone parents get the interventions structured in the way that they need them. There is also the possibility of an increase in activity for DMA on the work-related activity changes.
- 10.14 The existing Labour Market System (LMS) functionality for the current mandatory interview types can be used to support the flexible delivery of mandatory WFIs. These will enable any necessary DMA action to be undertaken for non-attendance and participation. Advisers would set a review date of no further ahead than what would have been the next mandatory WFI (i.e. three or six months) using the existing mandatory interview type. This would be made clear in guidance but would not require any changes to the current IT systems.
- 10.15 IT changes will be required, to LMS and DMAS as well as UC systems to enable work-related activity and work programme contracts may need to be re-negotiated. There may be change requirements for the Income Support Computer System (ISCS) in order to identify lone parents with a youngest child age 3. The changes need to be fully impacted.

Impact on contracted out employment support

- 10.16 The changes enable persons authorised by the Secretary of State to mandate claimants to WRA. Currently, some of these authorised persons include contracted out employment support providers. We will enter into negotiations about whether providers, for example Work Programme providers, choose to take up these powers. If they do, whenever they exercise them they must use the same consideration of individual circumstances as JCP advisers.

Impact on Child Poverty

- 10.17 WFI and WRA support the Government's aim of delivering a welfare system that recognises work as the primary route out of poverty and reduce the number of children in workless households. A child of a lone parent who works part-time is almost three times less likely, and a child of a lone parent that works full-time is 5 times less likely, to be living in poverty than a child of a lone parent who is not working.
- 10.18 Lone parents who face higher sanction rates (i.e. under ESA and UC) will be able to apply for hardship funds. This ensures that children are protected from most of the effects of sanctions on parents.

Rural Impact

- 10.19 The changes should have a minimal impact as full account will be taken of the genuine difficulties those living in rural areas may have in attending work WFI and undertaking WRA. Such matters will be considered when agreeing claimant responsibilities and deciding to impose a sanction for non-compliance.

Equality and Diversity Impact

- 10.20 The Equality Assessment is sent as a separate document with this explanatory memorandum.

11. Monitoring and Evaluating

- 11.1 The revised ISLP WFI regime and changes to WRA for lone parents and responsible nominated carers with a youngest child age 3 or 4 will be monitored and evaluated through:
- 11.1.1 administrative datasets, including the Department for Work and Pension's Work and Pensions Longitudinal Study (WPLS), to monitor trends in the benefit caseloads for the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups. Where it is practical we will endeavour to incorporate information for the other protected groups.
 - 11.1.2 qualitative research and feedback from stakeholder groups to assess whether there are unintended consequences for

- the protected groups, and whether the policy is likely to result in adverse consequences for particular groups.
- 11.1.3 we will utilise feedback from Departmental employee networks and internal management information. For example we will monitor the level of complaints in order to assess the broader impact of the policy.
- 11.1.4 we will draw on broader DWP research where appropriate, as well as consider the need for any research to be commissioned specifically to evaluate the measure.

Annex 1

CURRENT AND PROPOSED CONDITIONALITY

| Age of youngest child | Current journey | | | Proposed policy | |
|-----------------------|--|--|--|--|--|
| | IS | ESA | UC/new-style ESA | IS/ESA | UC/new-style ESA |
| Less than 1 | No conditionality | No conditionality | No conditionality | No conditionality | No conditionality |
| 1 | 6 monthly Work Focused Interviews (WFIs) | WFIs; frequency driven by adviser discretion | WFIs; frequency driven by adviser discretion | Freq. of WFIs driven by adviser discretion, but minimum of 2 a year set out in guidance for IS customers | No change |
| 2 | 6 monthly WFIs | WFIs; frequency driven by adviser discretion | WFIs; frequency driven by adviser discretion | Freq. of WFIs driven by adviser discretion, but minimum of 2 a year set out in guidance for IS customers | No change |
| 3 | 6 monthly WFIs | WFIs; frequency driven by adviser discretion | WFIs; frequency driven by adviser discretion | Freq. of WFIs driven by adviser discretion, but minimum of 2 a year set out in guidance for IS customers Can now be mandated to attend Work-Related Activity. | Ability to impose work preparation requirement in addition to WFIs |

| Age of youngest child | Current journey | | | Proposed policy | |
|-----------------------|---|---|---|--|---|
| | IS | ESA | UC/new-style ESA | IS/ESA | UC/new-style ESA |
| 4 | Quarterly WFIs | WFIs; frequency driven by adviser discretion | WFIs; frequency driven by adviser discretion | Freq. of WFIs driven by adviser discretion, but minimum of 4 a year for IS customers Can now be mandated to attend Work-Related Activity. | Ability to impose work preparation requirement in addition to WFIs. |
| 5 | No entitlement to IS, Move to JSA: full work search requirements. Work Programme as appropriate If move to ESA, see ESA column | Mandatory referral to the Work Programme dependent upon prognosis OR Mandatory WRA delivered by Jobcentre Plus Offer. | Claimants placed in all work-related requirements group | Move to JSA: full work search requirements. Work Programme as appropriate If move to ESA, see ESA column | No change. Claimants placed in all work-related requirements group |